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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the United Nations High Commissioner for Human Rights on the rights of indigenous peoples

Summary

The present report is submitted pursuant to Human Rights Council resolution 36/14. It contains information on relevant developments relating to human rights bodies and mechanisms and outlines the activities undertaken by the Office of the United Nations High Commissioner for Human Rights at Headquarters and in the field that contribute to the promotion of, respect for and the full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples as well as of provisions in relevant international human rights treaties. The report covers the period from 1 May 2017 to 31 May 2018.

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I. Introduction

1. In its resolution 36/14 concerning human rights and indigenous peoples, the Human Rights Council requested the United Nations High Commissioner for Human Rights to continue to submit to it an annual report on the rights of indigenous peoples, containing information on relevant developments in human rights bodies and mechanisms and on the activities undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) at headquarters and in the field, that contribute to the promotion of, respect for and the full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

2. The present report focuses on some illustrative examples of OHCHR activities and initiatives undertaken at the country, regional and headquarters levels that contribute to realization of the rights of indigenous peoples. It also outlines recent developments within United Nations human rights bodies and mechanisms pertaining to indigenous peoples.

II. General overview of OHCHR activities and recent developments in human rights bodies and mechanisms

3. During the period under review, important measures were taken to advance the rights of indigenous peoples. However, progress remains fragile. Reports by United Nations human rights mechanisms demonstrate that the United Nations Declaration on the Rights of Indigenous Peoples and the outcome document of the World Conference on Indigenous Peoples are far from being fully implemented, and that the shrinking democratic space in many countries continues to be a challenge for indigenous human rights defenders, organizations and movements, including those that cooperate with the United Nations. Many countries where indigenous peoples live fail to meet indigenous peoples' human rights obligations and to ensure their meaningful engagement and effective participation, including when elaborating development priorities and strategies that relate to extractive industries and to the use of land, territories and resources.

4. To address these concerns, OHCHR continued to provide technical assistance and guidance to Member States, indigenous peoples, civil society organizations and United Nations bodies, and strengthened its efforts to involve indigenous peoples in all international initiatives that affect them, including the implementation of the 2030 Agenda for Sustainable Development.

5. During the reporting period, indigenous peoples' rights were included in the recommendations of several human rights treaty bodies, and in the reports and communications and other activities of several special procedure mandate holders. These United Nations mechanisms provided detailed, country-specific recommendations for the implementation of indigenous peoples' rights, including in relation to resources and support to develop their capacities, in order for indigenous peoples to be able to claim their rights and interact on an equal footing with the authorities, the private sector and human rights mechanisms. These mechanisms also highlighted the need to ensure that all those whose decisions impact indigenous peoples' rights — from State authorities to business enterprises and international financial institutions — are familiar with the standards set forth in the United Nations Declaration on the Rights of Indigenous Peoples.

A. Requirements for free, prior and informed consent and for consultative mechanisms, including in the context of business and extractive industries

6. A key area of concern for OHCHR and United Nations human rights mechanisms continues to be the development activities undertaken in indigenous lands and territories with insufficient regard for the principle of free, prior and informed consent and for other safeguards enshrined in the United Nations Declaration on the Rights of Indigenous

Peoples. OHCHR provided expert guidance to key stakeholders on the practical application of indigenous peoples' requirement for free, prior and informed consent in order to enable meaningful participation by indigenous peoples in the context of large-scale projects and economic interests over indigenous lands, territories and natural resources.

7. For example, the OHCHR Regional Office for Central America has played an important role in the establishment of the national mechanism for consultation with indigenous peoples in Costa Rica via a presidential decree issued in March 2018. OHCHR provided technical advice to the Government and the eight indigenous peoples of Costa Rica, in order to ensure compliance with the international standards on human rights and in particular with the United Nations Declaration on the Rights of Indigenous Peoples and the recommendations issued by international human rights mechanisms.

8. During the process that led to the establishment of the national mechanism, the Regional Office, together with the International Labour Organization (ILO) and the United Nations Development Programme (UNDP), supported the various phases of the process by organizing workshops in the 24 territories of the country, helped generate broad participation in all the indigenous territories, including by older people, women and young people, and contributed to facilitating the dialogue between the Government and indigenous peoples. The Regional Office also facilitated the organization of two national meetings that were attended by more than 100 indigenous representatives, and contributed to the process of drafting the decree to ensure that it complied with international human rights standards.

9. The OHCHR office in Colombia supported the elaboration and implementation of protocols for consultation and negotiation with third parties and the realization of processes for free, prior and informed consent, including with the Arhuaco people of the Sierra Nevada de Santa Marta for the protection of their ecosystem; and with the Nasa people in northern Cauca in relation to the La Salvajina hydroelectric dam as well as to the demobilized members of the Revolutionary Armed Forces of Colombia — People's Army (FARC-EP) in the ancestral territory of the Nasa people.

10. The country office is also working on free, prior and informed consent processes with the 15 indigenous peoples of the Putumayo region — 13 of whom have been recognized by the Constitutional Court of Colombia as risking physical and cultural extermination.

11. The OHCHR office in Guatemala monitored the case of the El Escobal mining project, owned by the Canadian company Tahoe Resources. In June 2017, an injunction issued by the Supreme Court of Justice suspended the mine's activities and ruled that the State must "restore the violated constitutional rights of the indigenous Xinca community of the departments of Santa Rosa and Jalapa". The injunction also instructed the Ministry of Energy and Mines to carry out a consultation process within 12 months. The decision was appealed to the Constitutional Court. In this context, the OHCHR office documented cases of human rights violations and provided technical assistance to the communities concerned.

12. The country office expressed concern to the Government over a draft bill on consultation, presented to Congress in April 2018, which focused only on the obligation to comply with the Indigenous and Tribal Peoples Convention, 1989 (No. 169) without referring to other relevant international standards. The bill was drafted without the participation of indigenous peoples.

13. The OHCHR office in Mexico worked on emblematic cases relating to free, prior and informed consent, providing technical assistance to indigenous communities, authorities, civil society and private companies to monitor ongoing processes. It carried out several missions to follow up on consultation processes, including in the central valleys of Oaxaca where 16 indigenous communities were affected by a presidential decree limiting their access to water. The office is also following up on similar consultation processes in the community of Unión Hidalgo, Oaxaca, related to a wind park project; with Mayan communities in the State of Campeche in relation to the planting of transgenic soy, in collaboration with UNDP and the Food and Agriculture Organization of the United Nations (FAO); and with other Mayan communities in the State of Yucatán for the construction of a wind park and for a solar energy project. The office also participates as an observer in the

consultation process for the construction of a solar park in the indigenous community of San José Tipceh.

14. The country office was also involved in several other processes during which consultations were proving insufficient, for example in connection with the Otomí community of Xochicuautla being affected by the construction of a highway in their sacred forest. The office played an important role in the suspension of all construction operations and in the establishment of a round table that resulted in agreements being reached between the parties in May 2018.

15. The country office organized several capacity-building activities related to the principle of free, prior and informed consent. For example, in June 2017 it trained representatives of the Ministry of Energy, the Energy Regulatory Commission, the National Hydrocarbons Commission and the National Commission for the Development of Indigenous Peoples, among others.

16. As a result of a communication and a press statement issued in July 2017 by the Special Rapporteur on the rights of indigenous peoples, on the ongoing negotiations between oil companies and the Government in Peru, the Government began a dialogue with the indigenous authorities prior to considering new licences for oil exploitation. A 30-year contract for future extraction rights in the Amazon rainforest, in the country's Loreto region, was under negotiation.

17. In July 2017, the Special Rapporteur sent a communication to the Government of Nepal regarding an ongoing Kathmandu Valley road improvement project, referring to allegations of forced evictions and the destruction of cultural property, and to the lack of consultation with and of free, prior and informed consent from the Newar indigenous peoples affected. The Government halted the road project pending the decision of the Supreme Court on the matter.

18. In April 2017, the Special Rapporteur was invited to undertake a working visit to Honduras to provide advice on draft legislation regarding the obligation to consult with indigenous peoples. Subsequent written commentaries on the draft law, made public by the Special Rapporteur in June 2017, helped to make all actors aware of the international human rights standards related to consultation and consent, while also encouraging the inclusion of all actors in the discussion.

19. The Working Group on the issue of human rights and transnational corporations and other business enterprises engaged with representatives of indigenous peoples during its official country visits to Canada (May 2017), Peru (July 2017) and Thailand (March–April 2018), addressing specific human rights concerns related to indigenous peoples' rights with reference to the United Nations Declaration on the Rights of Indigenous Peoples and the requirement of free, prior and informed consent.[1]

20. The Working Group addressed specific challenges faced by indigenous peoples in its 2017 report to the General Assembly,[2] and has also sent letters to States and private companies, under the communications procedure, regarding the situation of indigenous peoples affected by business activities.

21. Over the course of the reporting period, human rights treaty bodies consistently raised issues related to the rights of indigenous peoples to consultation and to the principle of free, prior and informed consent.[3] They recommended that States apply existing protocols in consultation with indigenous peoples before creating new ones and stressed that new protocols should be developed in accordance with the relevant international human rights standards.

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[1] Reports to be presented to the Human Rights Council for its thirty-eighth session.

[2] A/72/162.

[3] In connection with Australia, Bangladesh, Cameroon, Canada, Chile, Colombia, Costa Rica, Ecuador, Finland, Guatemala, Kenya, Mexico, Nepal, New Zealand, Norway, Panama, Paraguay and the Russian Federation.

22. They also encouraged States parties to conduct independent studies into the potential social and environmental impact on indigenous peoples of natural resource exploration and development projects, and called for adequate remedies and reparation for groups negatively affected by extractive activities.

23. The Committee on Economic, Social and Cultural Rights, in paragraphs 12 and 17 of its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, recommends that States parties and businesses respect the principle of the free, prior and informed consent of indigenous peoples in relation to all matters that could affect their rights.

24. Regarding existing national mechanisms for consulting indigenous peoples on matters that concern them, treaty bodies also advised the allocation of greater resources to ensure the mechanisms' effective functioning[4] and referred to initiatives for setting up new relevant government structures.[5]

25. A recurrent recommendation arising from the universal periodic review during the reporting period relates to the development or enhancement of procedures and mechanisms that guarantee meaningful, effective and full participation of indigenous peoples in decision-making processes relating to all development projects and legal or administrative measures that directly or indirectly affect their communities. A total of seven countries received recommendations to take further steps in this regard, often with direct reference to the need for ratification, implementation or systematic application of the United Nations Declaration on the Rights of Indigenous Peoples, the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), or the principle of free, prior and informed consent.

B. Land rights

26. During the reporting period, OHCHR actively engaged in activities promoting indigenous people's rights to land, in cooperation with relevant stakeholders.

27. In November 2017, the OHCHR office in Cambodia shared with the Ministry of Rural Development, the Ministry of the Interior and the Ministry of Land Management, Urban Planning and Construction — the three ministries responsible for the three-step process allowing indigenous peoples to obtain communal land titles — a draft discussion paper on the potential reform of the communal land titling process. The office held consultation meetings with the relevant ministries at the technical level, as well as with relevant non-governmental organizations, to complete the document for formal presentation to the Government in 2018.

28. The country office received information from indigenous and other communities that claim to have lost land due to land disputes or inconsistent implementation of government policies. It received petitions from individuals and groups seeking its intervention and legal advice on their disputes and concerns. It conducted field visits to ascertain facts, engaged with the relevant authorities and dispute resolution mechanisms, facilitated dialogue among the parties, and provided legal and procedural advice to communities and the civil society organizations supporting them. In August 2017, it organized a training workshop on national and international standards relating to the rights of indigenous peoples for approximately 35 Chong indigenous representatives from Pursat Province.

29. The country office also assisted the Government and business enterprises in providing adequate remedies in cases of land and housing rights violations, in coordination with a non-governmental organization, the Independent Mediation Group, in August 2017, and in providing technical support to indigenous Bunong communities affected by an Economic Land Concession in Busra, Mondulkiri Province, during the pre-mediation and mediation phases of the dispute resolution accepted by the company concerned.

[4] See CERD/C/AUS/CO/18-20, para. 19.

[5] See CEDAW/C/CHL/CO/7, para. 47.

30. In May 2018, the country office supported the Ministry of Land Management, Urban Planning and Construction in organizing a pilot training programme on dispute resolution mechanisms for 13 indigenous communities located in Ratanakiri Province that had already had communal land titles issued to them in previous years, to enable them to protect their land against encroachment.

31. The country office continued to work closely with the three main ministries involved in the communal land titling process as well as with local authorities, civil society organizations and indigenous communities to support the issuance of collective land titles. In October and November 2017, the office organized two regional seminars on the communal land titling process for 140 local authorities and 20 indigenous peoples' representatives.

32. The country office also supported the three ministries, their local departments and the indigenous communities with specific communal land titling processes. Among other results, two Bunong indigenous communities in Mondulkiri and Kratié Provinces adopted community by-laws, in August 2017 and April 2018 respectively, as part of the second step in the communal land titling process. In October, three Jorng communities in the Areng Valley of Koh Kong Province — the site of a number of high-profile land disputes in recent years — received their indigenous identity certificates. This experience was recorded, to produce a video to help inform other communities about how they can use and benefit from the communal land titling process.[6]

33. The OHCHR office in Guatemala organized a high-level training course for political and legal advisers from 16 relevant government institutions, including the property registry and the Presidential Commission on Discrimination and Racism against Indigenous Peoples, on international standards related to land, a healthy environment and indigenous peoples.

34. With the financial assistance of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, the National Council of Displaced Guatemalans [7] implemented a project in the country's Sayaxché region that provided social and legal support to 300 Q'eqchi' Maya victims of land dispossession and environmental contamination generated by the palm oil industry.

35. The OHCHR presence in Kenya engaged with indigenous communities, as part of the national steering committee developing the policy on business and human rights, to collect their views on what the policy should contain regarding the land rights of indigenous peoples, environmental rights, issues of forced evictions and access to remedies. The information was included in a report on stakeholder consultations. In May 2017, OHCHR facilitated a session on the Guiding Principles on Business and Human Rights, as part of the steering committee.

36. The OHCHR presence in Kenya also supported the Ogiek community for its engagement with the task force set up in November 2017 to implement the decision of the African Court[8] and give recommendations for a six-month period. Part of the task force's role is to engage with the Ogiek community. However, the task force's mandate expired before it could engage with stakeholders and there are ongoing discussions on allocating more time for consultations.

37. The OHCHR presence in Kenya continued to monitor the various evictions of members of the Sengwer community from the Embobut Forest between December 2017 and February 2018, consulting with stakeholders and providing information to the special procedures of the Human Rights Council.

38. The Special Rapporteur on the rights of indigenous peoples, during her official country visits undertaken in November 2017 at the invitation of the Government of Mexico and in May 2018 at the invitation of the Government of Guatemala, focused on economic

[6] See https://youtu.be/F7atg5Ps8q0.

[7] Consejo Nacional de Desplazados de Guatemala.

[8] *African Commission on Human and Peoples' Rights v. Republic of Kenya*, Application No. 006/2012 (2017).

development projects that had led to land dispossession, harmful environmental impact and social conflicts, and to the criminalization of indigenous community members opposing them. In her report to the General Assembly,[9] presented at its seventy-second session, she identified the collective rights of indigenous peoples to their lands, territories and resources as a priority area requiring urgent attention.

39. The Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child issued a number of recommendations to protect indigenous peoples' land rights. The Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child expressed concerns about cases of eviction of indigenous peoples from ancestral lands. Human rights treaty bodies recommended that States parties hold consultations with indigenous communities with a view to obtaining their free, prior and informed consent before making any decisions that would have an impact on them.[10] The Committee on Economic, Social and Cultural Rights stressed the importance of the demarcation and recognition of indigenous peoples' lands in order to reinforce the communities' right to protect, develop and control it.[11] The same Committee recommended that guarantees of reparation, alternative housing and compensation should be established.[12] In paragraph 46 of its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, the same Committee calls upon States parties to ensure that indigenous peoples have access to effective remedies, both judicial and non-judicial, which should be sensitive to indigenous cultures and accessible to indigenous peoples. The Committee on the Elimination of Discrimination against Women recommended the enforcement of legal and other measures to protect effectively women who are victims of harassment and violence in the context of forced evictions.[13]

40. In order to effectively protect land rights and avoid land-related conflicts, the Committee on Economic, Social and Cultural Rights recommended to various countries to increase their national efforts related to the demarcation and titling of indigenous lands, which should include stronger institutional capacity for the entities responsible for such processes.[14]

C. Human rights defenders

41. A number of United Nations human rights mechanisms and various OHCHR field presences raised issues related to the safety of those defending indigenous peoples' rights.

42. During the Permanent Forum on Indigenous Issues, in April 2018, the Assistant Secretary-General for Human Rights drew attention to widespread intimidation and reprisals against indigenous peoples who cooperated with the United Nations. He stressed the need to ensure that the experience of indigenous peoples who had been targeted for claiming their rights by engaging with the United Nations was properly reflected in the Secretary-General's 2018 report on reprisals.[15]

43. The Expert Mechanism on the Rights of Indigenous Peoples shared the concerns expressed by other United Nations human rights experts[16] through a statement in March 2018 in support of indigenous human rights defenders in the Philippines, including the

[9] A/72/186.
[10] See CCPR/C/HND/CO/2, para. 47.
[11] See E/C.12/MEX/CO/5-6, para. 68.
[12] See E/C.12/RUS/CO/6, para. 49.
[13] See CEDAW/C/GTM/CO/8-9, para. 41.
[14] See A/HRC/37/5, A/HRC/36/11, A/HRC/36/7 and A/HRC/37/8.
[15] Information can be sent to reprisals@ohchr.org.
[16] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22783&LangID=E and www.un.org/development/desa/indigenouspeoples/news/2018/03/unpfii-indigenous-human-rights-defenders-in-the-philippines/.

concerns about the recent terrorism accusations levelled against the Special Rapporteur on the rights of indigenous peoples. The Expert Mechanism also expressed its support for Joan Carling, a former member of the Permanent Forum on Indigenous Issues, and Jose Molintas, a former member of the Expert Mechanism, who are the targets of similar accusations.

44. In the same vein, the Committee on the Elimination of Racial Discrimination adopted its decision 1 (95) on the Philippines under its early warning and urgent action procedures, expressing concern about claims that the list of more than 600 individuals alleged to be affiliated with terrorist organizations, included in the court petition of February 2018 filed by the Philippines State Prosecutor, is aimed at intimidating "indigenous peoples defending their lands, and is part of a wider campaign by the State party to narrow the democratic space and to target various groups of persons including indigenous peoples, human rights defenders, and persons expressing dissenting opinions".[17]

45. The OHCHR office in Colombia intervened rapidly with relevant authorities regarding threats, kidnappings and the risk of assassination facing indigenous leaders in the regions of Catatumbo, Putumayo, Chocó, Nariño, Cauca and Valle del Cauca.

46. The country office acknowledged the efforts made by the National Protection Unit of the Ministry of the Interior to protect human rights defenders, and supported the strengthening of collective protection measures in rural areas, such as using indigenous guards as a means of individual and territorial protection.

47. In November 2017, the OHCHR office in Guatemala organized a workshop on the protection of indigenous women human rights defenders, which focused on issues of invisibility and of the normalization of violence. The office also documented cases of criminalization of indigenous human rights defenders working on land rights and followed up on cases with State authorities.

48. The country office monitored emblematic cases to ensure greater transparency and due process, and supported the work of the Office of the Attorney-General, maintaining close contact with a vast network of indigenous human rights defenders, visiting the communities concerned and meeting with local authorities. Protection of human rights defenders was further enhanced by the development of a public policy on this matter by the Presidential Commission for Coordinating Executive Policy in the field of human rights, with technical support from OHCHR.

49. The OHCHR office in Honduras continued to monitor the case of the killing of the indigenous Lenca environmental defender Berta Cáceres in March 2016, allegedly linked to her opposition to the Agua Zarca dam, run by the Desarrollos Energéticos hydroelectric company in Honduras.

50. The Special Rapporteur on the rights of indigenous peoples has, together with other special procedures, sent a string of communications on the case to the Government and to financial investors supporting the dam project, and has highlighted the case in several of her reports and speeches to the Human Rights Council and the General Assembly. Several investors, including the Netherlands Development Finance Company, the Central American Bank for Economic Integration and Finnfund, subsequently suspended funding for the dam project.

51. Unprecedented prevention measures were taken by Mexican authorities, as a result of a press release calling for an impartial and effective investigation, issued by the OHCHR office in Mexico, after it had documented cases of violence against indigenous human rights defenders in several Mexican states, including Oaxaca, the State of Mexico, Guerrero and Chihuahua. In January 2018, the office carried out two field missions to the State of Guerrero pursuant to reports of three extrajudicial killings of indigenous human rights defenders, allegedly by the state police.

[17] See http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/PHL/INT_CERD_EWU_PHL_8679_E.pdf.

52. In February 2018, the office convened an event in Mexico City to showcase the work of human rights defenders, with the participation of 500 representatives from different indigenous communities. The event enjoyed extensive coverage from the national media.

53. The Special Rapporteur on the rights of indigenous peoples has taken action on some 32 cases.[18] In January 2018, the European Commission decided to suspend a climate change project in the Embobut Forest in Kenya pending an assessment of the project's human rights compliance. Days before the decision, the Special Rapporteur on the rights of indigenous peoples, together with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment had sent two requests for urgent action to the Government of Kenya and the European Commission and had issued a press release expressing concern over allegations of forced evictions and attacks against the indigenous Sengwer people urging the authorities to investigate and the European Union to suspend funding of the project pending compliance with human rights standards.

54. In addition to following up on specific cases, the Special Rapporteur on the rights of indigenous peoples focused her thematic work in 2017 and 2018 on an assessment of the escalating problem of the criminalization of indigenous peoples who are defending their rights.

55. In May 2018, the Special Rapporteur on the situation of human rights defenders carried out an official visit to Honduras, where he met with numerous representatives and organizations of indigenous peoples. In his end-of-mission statement, he noted that indigenous people faced criminalization, stigmatization and judicial harassment, all of which were linked to the defence of their lands and environments. He noted the lack or the misuse of meaningful consultation with indigenous peoples, and the divisions and conflicts generated by private companies seeking access to their lands.

56. During the reporting period, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination provided recommendations to several States on the protection of indigenous human rights defenders. For example, the Committee on the Elimination of Discrimination against Women addressed the protection of indigenous women human rights defenders, who are subjected to different manifestations of violence, such as threats, sexual abuse and harassment, including by non-State actors. It called for prompt and transparent investigation of all cases of intimidation, harassment or attack against them.[19]

D. Early warning mechanisms and monitoring of human rights violations

57. Over the period under review, OHCHR continued to assist national authorities and other relevant actors in taking steps to prevent or mitigate human rights violations, including by supporting early warning mechanisms, risk assessments and rapid response capacities.

58. The OHCHR office in Mexico plays an active role as a member of the Board of the Federal Protection Mechanism for Journalists and Human Rights Defenders, to which it has presented a number of recommendations regarding cases of indigenous human rights defenders at risk.

59. Since March 2016, the country office has been actively participating in the implementation of the contingency plan of the State of Chihuahua — a public policy implemented by the Federal Ministry of the Interior and the local government to prevent attacks against human rights defenders and journalists. This initiative resulted in a baseline

[18] The cases were from Bangladesh, Brazil, Cambodia, Canada, Chile, the Democratic Republic of the Congo, Ecuador, Egypt, Guatemala, Honduras, India, Kenya, Mexico, Nepal, Paraguay, Peru, the Philippines, the United Republic of Tanzania and the United States of America.

[19] See CEDAW/C/CHL/CO/7, para. 31.

study on the situation of internally displaced persons in the region and the implementation of judicial decisions regarding the rights of indigenous peoples.

60. In January 2018, the country office, along with the International Organization for Migration the United Nations Children's Fund, UNDP and the Office for the Coordination of Humanitarian Affairs, conducted an inter-agency mission to the Tzotzil indigenous community in Chalchihuitán, in the State of Chiapas, where 5,000 members of the community had allegedly been forcibly displaced. The office presented results of the fact-finding mission to the Undersecretary for Human Rights of the Ministry of the Interior, calling for urgent measures to be taken.

E. Access to justice and the legal protection of indigenous peoples' rights

61. Access to justice is of particular importance given the gravity of the issues facing indigenous peoples, which include discrimination in criminal justice systems, particularly for indigenous women and young people. OHCHR sought to empower indigenous organizations to amplify their demands for recognition of and respect for their rights through legal means, such as litigation.

62. The United Nations Joint Human Rights Office in the Democratic Republic of the Congo continued to support legislative developments in the country, in cooperation with a parliamentary commission on indigenous peoples' rights. In December 2017, in partnership with parliamentarians and indigenous representatives, it supported the development of legislation to protect the rights of the indigenous peoples in the Province of Mai-Ndombe, which was adopted in May 2018.

63. The OHCHR office in Guatemala finalized the implementation of the second phase of the Maya Programme. It provided technical assistance to the Government and indigenous peoples on 11 strategic litigation cases and follow-up to 7 court rulings involving rights related to transitional justice, land and resources and bilingual intercultural education. Six of the 11 cases resulted in favourable rulings and 4 of them resulted in favourable and definitive rulings from the Constitutional Court regarding ancestral land claims on behalf of the Q'eqchi', Ch'orti' and Xinca peoples.

64. Through the Maya Programme, the country office collaborated with the Office of the Attorney-General on the development of a policy on access to justice for indigenous peoples. In May 2017, the Office of the Attorney-General presented its new 2017–2025 policy on access to justice for indigenous peoples,[20] to help overcome linguistic, cultural, geographic and economic barriers, and to provide access to justice for indigenous peoples in the country. The policy, developed with the technical assistance of OHCHR, provides for the creation of a secretariat on indigenous peoples within the Office of the Attorney-General, which will play a major role in implementing policies developed in consultation with indigenous authorities.

65. The country office also organized seminars and training sessions with international experts on indigenous peoples' rights, including training for judges on indigenous peoples' rights and on indigenous women's rights, in the context of transitional justice trials and reparation measures.

66. The OHCHR office in Honduras continued to be an observer on the inter-institutional commission for the implementation of the rulings handed down by the Inter-American Court of Human Rights in the *Punta Piedra v. Honduras* and *Triunfo de la Cruz v. Honduras* cases. The office is monitoring the implementation of the reparations ordered by the court, with a special focus on land, natural resources and prior consultation rights.

67. The United Nations Voluntary Fund for Victims of Torture, managed by OHCHR, supported a project implemented in Guatemala by the Community Studies and Psychosocial Action Team to provide psychosocial support, using a traditional indigenous approach, to indigenous women who became victims of torture and sexual violence during the internal

[20] See A/HRC/34/3/Add.1, para. 25.

armed conflict. A total of 156 indigenous women, including women from the Mam, Chuj, P'opti', Kaqchikel, Ixil, K'iche' and Q'eqchi' peoples, received assistance during and after strategic litigation cases, including 14 Q'eqchi' Maya women who participated in the landmark Sepur Zarco case.

68. In Peru, the United Nations Voluntary Fund for Victims of Torture financially supported a project that provided legal support to about 650 indigenous Quechua people seeking truth, justice and reparation for their lost family members. The project was implemented by the National Association of Families of the Kidnapped, Detained and Disappeared of Peru, an organization created by Quechua mothers, wives and families of victims of arbitrary detention and enforced disappearance during the internal armed conflict.

69. During the reporting period, the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, managed by OHCHR, financially supported one organization exclusively assisting indigenous victims of contemporary forms of slavery. As a result, about 300 indigenous victims of slavery received assistance in Guatemala.

70. Also during the reporting period, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination made recommendations to increase and protect indigenous peoples' rights to access to justice, indicating the particular intersectional obstacles faced by indigenous women when attempting to access justice systems,[21] the scarcity of local points of access to justice in rural and indigenous areas[22] and the financial obstacles involved.[23] The Committee on the Elimination of Discrimination against Women recommended the designing of a strategy which addresses language barriers and disseminates information about effective legal remedies and procedures enabling women to claim their rights.[24] The Committee on the Elimination of Racial Discrimination recommended an increase in the allocation of resources to existing national mechanisms established to provide legal services for indigenous communities.[25]

71. The Committee against Torture expressed its concern about the use of punishment devices such as the stocks, for the application of penalties in the administration of indigenous justice. It urged the State party to take the measures necessary to ensure that indigenous justice is administered with full respect for human rights.[26]

72. Issues related to improving access to justice and strengthening the legal protection of indigenous peoples were addressed in a number of recommendations arising from the universal periodic review. States were advised to intensify their efforts to eliminate structural discrimination. Furthermore, recommendations were made to adopt and/or implement policies that ensure thorough, impartial, independent and timely investigations into all attacks, harassment and acts of intimidation against indigenous peoples' human rights defenders, journalists and/or social organizations.[27]

F. Indigenous peoples and the 2030 Agenda for Sustainable Development

73. The 2030 Agenda for Sustainable Development and its overall focus on reducing inequalities and leaving no one behind are of particular relevance to indigenous peoples.

74. The OHCHR office in Guatemala held workshops on a human rights-based approach to the implementation of the Sustainable Development Goals and human rights indicators, for the Secretariat for Planning and Programming of the Office of the President, the National Statistics Institute, the Ombudsman, indigenous peoples, members of civil society and the United Nations country team.

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[21] See CEDAW/C/THA/CO/6-7, para. 10.
[22] See CEDAW/C/GTM/CO/8-9, para. 12.
[23] See CEDAW/C/CHL/CO/7, para. 14.
[24] See CEDAW/C/CRI/CO/7, para. 9.
[25] See CERD/C/AUS/CO/18-20, para. 26.
[26] See CAT/C/PAN/CO/4, para. 46.
[27] See A/HRC/36/11, A/HRC/37/9 and A/HRC/37/8.

75. The OHCHR office in Honduras, in partnership with OHCHR, the National Human Rights Protection Mechanism and the Special Prosecutor for Ethnic Groups[28] held a series of workshops directed at local authorities, justice operators, public defenders and the police, aimed at preventing the misuse of the criminal justice system against indigenous peoples charged with land appropriation or other criminal offences, in the context of social protest activities to assert their ancestral land rights.

76. The OHCHR office in Mexico collaborated with UNDP and FAO to provide technical assistance in the implementation of the Agreement for the Sustainability of the Yucatán Peninsula, signed by three Governors (of the States of Quintana Roo, Yucatán and Campeche), aimed at developing policies and programmes that support the implementation of Sustainable Development Goal 2 on ending hunger, achieving food security and improved nutrition and promoting sustainable agriculture, and of Sustainable Development Goal 15 on protecting, restoring and promoting sustainable use of terrestrial ecosystems, sustainably managing forests, combating desertification, halting and reversing land degradation and halting biodiversity loss.

77. During the reporting period, the Committee on the Rights of the Child referred to target 16.2 of the Sustainable Development Goals when recommending the creation of monitoring mechanisms and particular measures to prevent violence against children belonging to indigenous communities.[29]

78. The Committee also drew attention to targets 1.3 and 11.1 of the Sustainable Development Goals, recommending the adoption of strategies to "ensure that public policies in the area of housing, safe drinking water and sanitation, health and education adequately address the rights of children belonging to indigenous peoples"[30] and guarantee a good standard of living.

79. When addressing the issue of unequal access to education due to gender disparities, the Committee on the Rights of the Child referred to target 4.5 of the Sustainable Development Goals on eliminating gender disparities in education and ensuring equal access to all levels of education and vocational training for the vulnerable, including indigenous peoples.[31]

80. The Committee was also concerned at underregistration among indigenous peoples, and encouraged the registration of children at birth, in accordance with target 16.9 of the Sustainable Development Goals on providing legal identity for all, including birth registration.[32] The Committee on the Rights of the Child recommended the reinforcement of measures to provide quality health care, including access to health care in indigenous languages, in line with target 3.8 of the Sustainable Development Goals on achieving universal health coverage.[33]

G. Data collection and data disaggregation

81. The OHCHR office in Guatemala promoted the collaboration between indigenous peoples and national census authorities to ensure that indigenous peoples actively participated in the census.

82. The Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child urged States to systematically collect and provide statistical data through all relevant ministries and departments, disaggregated by ethnic groups, including indigenous peoples, to provide an empirical basis on which to evaluate the equal enjoyment of rights under their respective Conventions. The Committee on the Rights of the Child expressed

[28] Fiscalía de Etnias.
[29] See CRC/C/ECU/CO/5-6, para. 25.
[30] Ibid., para. 36.
[31] See CRC/C/PLW/CO/2, para. 51.
[32] See CRC/C/PAN/CO/5-6, para. 18.
[33] Ibid., para. 29.

concern about the lack of disaggregated data on children belonging to indigenous peoples, and of assessments of their situations, and encouraged the establishment of a system for collecting such data.[34]

H. Indigenous peoples' social and cultural rights

83. In November and December 2017, the OHCHR office in Mexico coordinated the joint visit of the Special Rapporteurs on freedom of expression of the Human Rights Council and of the Inter-American Commission on Human Rights, during which the Special Rapporteurs met with a number of indigenous radio broadcasters who provided information in their own language and drew attention to cultural and social issues in their community which would otherwise not be covered by the media. The Special Rapporteurs pointed to the need to adopt measures to expand the access of indigenous peoples to community broadcasting, and to continue to improve access to broadband in areas lacking reliable access.

84. The Committee on Economic, Social and Cultural Rights expressed concerned about the extinction of indigenous languages and recommended the establishment of frameworks to ensure that indigenous languages were taught in schools.[35] The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child encouraged the dissemination of indigenous cultures through education.[36] The Human Rights Committee recommended increasing the recruitment and training of indigenous language teachers and increasing the availability of language instruction in indigenous languages for indigenous children in kindergarten. The Committee on the Elimination of Racial Discrimination affirmed that multiculturalism included indigenous cultures and that national anti-racism strategies should also protect indigenous communities from hate speech and violence.[37]

85. The Committee on Economic, Social and Cultural Rights, the Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child addressed issues regarding the right to health of indigenous peoples. The Committee on the Rights of Persons with Disabilities addressed issues of prioritized accessibility to health care for indigenous persons with disabilities. The Committee on the Elimination of Discrimination against Women focused on indigenous women's rights to health care, and their particular concerns, including childbirth services, gynaecological services, contraception and basic health-care services. The same Committee also pointed out the higher rates of maternal mortality, early pregnancy and malnutrition among indigenous women and girls.[38] The same Committee recommended that information about health care, including contraception, should be disseminated to indigenous communities to enable a gender-sensitive, consultative and inclusive process.[39]

86. The issue of indigenous languages is pertinent in a number of sectors, including health care, since the provision of health-care services in indigenous languages remains insufficient in certain cases and thus limits access to such services by indigenous people.[40] The Committee on the Rights of the Child highlighted the issue of adolescent health in indigenous communities.

[34] See CRC/C/GTM/CO/5-6, para. 43.
[35] See E/C.12/AUS/CO/5, para. 58.
[36] See E/C.12/URY/CO/5, para. 60.
[37] See CERD/C/AUS/CO/18-20, para. 13.
[38] See CEDAW/C/GTM/CO/8-9, para. 36.
[39] See CEDAW/C/NOR/CO/9, para. 39.
[40] See CERD/C/FIN/CO/23, para. 18.

I. Violence against indigenous women and girls

87. During the reporting period, indigenous women and girls in many countries continued to face violence and multiple forms of intersecting discrimination impeding their full and equal enjoyment of all human rights.

88. The OHCHR office in Guatemala registered cases of violence against indigenous women and girls in the context of forced evictions — such as in the case of the forcibly evicted Chabilchoch community in Izabal department — including allegations of excessive use of force by the police.

89. The Human Rights Committee and the Committee on the Elimination of Racial Discrimination expressed concerns about the lack of national mechanisms to address intersectional discrimination and violence. The Human Rights Committee recommended the strengthening of existing preventive measures[41] with mechanisms that specifically report cases of violence against indigenous women. The Committee on the Elimination of Discrimination against Women noted a number of issues of violence related to indigenous women, in particular, such as obstetric violence in connection with childbirth services,[42] insufficient capacity of law enforcement officials to investigate and prosecute cases of gender-based violence,[43] sexual violence,[44] and lack of information about legal remedies for gender-based violence.[45] The same Committee also pointed out the issue of intersectional discrimination against women and against indigenous people.[46]

90. The Committee on the Elimination of Discrimination against Women recommended the dissemination of information about legal remedies available to indigenous women who have suffered gender-based violence, and systematic training for the judiciary and law enforcement officers on the rights of indigenous women.[47] The Committee on Economic, Social and Cultural Rights recommended the implementation of measures to combat domestic violence against women, including indigenous women,[48] especially as domestic violence may result in homelessness. The Committee on Economic, Social and Cultural Rights also recommended the development of national housing strategies, with adequate funding. [49] The Committee on the Rights of Persons with Disabilities added a recommendation to include women and girls in policies regarding violence against indigenous people and people with disabilities, in order to ensure their intersectional protection.[50]

91. The Committee on the Rights of Persons with Disabilities has adopted its general comment No. 6 (2018) on equality and non-discrimination, which provides details on intersectional discrimination.[51] In paragraph 29 (c) of its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee on the Elimination of Discrimination against Women calls upon States parties to repeal, including in customary, religious and indigenous laws, all legal provisions that are discriminatory against women and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence.

[41] See CCPR/C/AUS/CO/6, para. 22.
[42] See CEDAW/C/CRI/CO/7, para. 30.
[43] See CEDAW/C/GTM/CO/8-9, para. 12.
[44] See CEDAW/C/NOR/CO/9, para. 25.
[45] See CEDAW/C/CHL/CO/7, para. 15.
[46] See CEDAW/C/GTM/CO/8-9, para. 15.
[47] See CEDAW/C/CHL/CO/7, para. 15.
[48] See E/C.12/AUS/CO/5, para. 34.
[49] Ibid., para. 42.
[50] See CRPD/C/PAN/CO/1, para. 17.
[51] See para. 19.

J. Development of national action plans

92. A significant commitment made by States at the World Conference on Indigenous Peoples, and reflected in its outcome document, relates to the preparation of national action plans to implement the United Nations Declaration on the Rights of Indigenous Peoples.

93. In 2017 and 2018, the OHCHR office in Mexico provided technical assistance to several local governments — of Chihuahua, San Luis Potosí, Querétaro and Mexico City — to define specific outputs and indicators related to the rights of indigenous peoples in their local action plans.

94. The country office also provided assistance in the evaluation of the National Human Rights Programme. On 19 May 2017, the office organized a meeting with the Ministry of the Interior to ensure the inclusion of the right to prior consultation in the National Plan on Business and Human Rights, advocating for effective consultation with indigenous peoples for the elaboration of the plan.

95. The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child recommended the inclusion of formal monitoring mechanisms in national action plans on business and human rights,[52] and the enactment of a national action plan on violence against women with special provisions to end the high rates of violence against indigenous women and girls.[53] These treaty bodies also recommended the adoption of a specific national action plan on violence against indigenous women,[54] as well as the development of a national action plan for, and with the full and effective participation of, indigenous children, to eliminate their vulnerability to violence and exploitation, and recommended that resources be allocated for that national plan.[55]

III. Participation of indigenous peoples in United Nations processes

96. Pursuant to General Assembly resolution 71/321, the President of the General Assembly convened an informal interactive hearing in April 2018 with indigenous peoples to reflect on possible further measures to enhance the participation of indigenous peoples' representatives and institutions in relevant United Nations meetings on issues affecting them. In his opening statement, the Assistant Secretary-General for Human Rights emphasized that indigenous peoples faced different realities around the world. While some States recognized indigenous peoples' governance institutions, others did not. He noted that it was critical to ensure that indigenous peoples could participate at the United Nations regardless of their status in their own countries. He also welcomed the call for regional consultations, as an important opportunity to ensure that the views of as many indigenous communities as possible, including of women and youth groups, were fully considered.

97. Every year, OHCHR supports indigenous people by improving their knowledge of, and facilitating their participation, in the work of United Nations human rights bodies and mechanisms.

98. During the reporting period, 33 representatives of indigenous peoples (20 women and 13 men) from 24 countries[56] participated in the annual Indigenous Fellowship Programme. Held in Geneva from 19 June to 14 July 2017, the programme was available in Arabic, English, Russian and Spanish. Participants were introduced to the United Nations

[52] See E/C.12/NLD/CO/6, para. 12.

[53] See CERD/C/CAN/CO/21-23, para. 24.

[54] See CERD/C/AUS/CO/18-20, para. 28.

[55] See CRC/C/PAN/CO/5-6, para. 36.

[56] Australia, the Plurinational State of Bolivia, Brazil, Burundi, Canada, Chad, Chile, Colombia, Congo, Ecuador, Guatemala, India, Indonesia, Kenya, Mexico, Morocco, Nicaragua, Pakistan, the Russian Federation, South Africa, Tuvalu, Ukraine, the United States of America and the Bolivarian Republic of Venezuela.

human rights instruments and mechanisms, and explored issues of particular relevance to indigenous peoples, such as climate change, human rights and business, women's rights and gender equality. The programme included training to develop specific skills in the areas of lobbying and media advocacy, resource mobilization, and mainstreaming human rights through human rights education. It culminated with the fellows' participation in the tenth session of the Expert Mechanism on the Rights of Indigenous Peoples, where they organized their own side event celebrating the twentieth anniversary of the establishment of the Indigenous Fellowship Programme. In addition, OHCHR published a booklet entitled "Indigenous Fellowship Programme 1997–2017: 20 years, 20 stories". The booklet highlights the achievements and challenges of 20 former fellows, from each of the language components, together with their achievements and the obstacles they face in their work.

99. OHCHR also hosted, at its headquarters, a senior indigenous fellow from Nicaragua for a four-month in-depth training experience on the relevant international human rights systems and mechanisms. She also had the chance to gain practical knowledge by contributing to the activities of OHCHR.

100. In 2017, the United Nations Voluntary Fund for Indigenous Peoples allocated 78 grants to support the participation of indigenous peoples in the sessions of the Permanent Forum on Indigenous Issues (24), the Expert Mechanism on the Rights of Indigenous Peoples (20), the Human Rights Council (3), including its universal periodic review (4), and in human rights treaty bodies (27).

101. The United Nations Voluntary Fund for Indigenous Peoples also provided support to 15 grantees in order to help them attend the General Assembly consultation process aimed at enhancing the participation of indigenous peoples' representatives in United Nations meetings on issues affecting them. In addition, the Fund allocated resources to equip indigenous people with the tools needed to make their participation in meetings more effective.

102. Indigenous peoples' representatives participated in the third regional consultation for Latin America and the Caribbean on the implementation of the Guiding Principles on Business and Human Rights within the framework of the 2030 Agenda for Sustainable Development, at the Economic Commission for Latin America and the Caribbean in Santiago on 12–14 December 2017. The meeting was jointly convened jointly by the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises and the OHCHR Regional Office for South America. One of the key issues addressed was the protection of indigenous leaders from human rights abuse perpetuated by private sector actors.[57]

103. To ensure that the voices of indigenous peoples are channelled to the United Nations and its human rights bodies and mechanisms, the Special Rapporteur on the rights of indigenous peoples regularly meets with representatives from indigenous peoples' groups and communities. At the seventeenth session of the Permanent Forum on Indigenous Issues, she met with 26 groups from different regions.

104. The OHCHR office in Guatemala provided technical assistance to civil society organizations and promoted indigenous women's participation in the drafting of alternative reports for the Committee on the Elimination of Discrimination against Women and the Human Rights Committee, while supporting the participation of indigenous peoples' representatives in the universal periodic review of Guatemala.

105. The office also provided technical assistance to the Presidential Commission on Discrimination and Racism against Indigenous Peoples when drafting periodic reports regarding Guatemala for the Committee on the Elimination of Racial Discrimination.

106. During the reporting period, the Committee on the Elimination of Racial Discrimination reviewed 18 States parties and received a significant number of alternative reports submitted by indigenous organizations. The dialogue involved numerous indigenous

[57] See A/HRC/32/45/Add.4.

activists and human rights defenders from the countries in question. They benefited from direct engagement with Committee members in public and private settings.

IV. Conclusions

107. During the reporting period, indigenous peoples in many parts of the world continued to face numerous significant human rights challenges, as highlighted by United Nations human rights mechanisms, which included intimidation and reprisals against those cooperating with the United Nations. In order to address these human rights challenges, OHCHR carried out a range of country and regional activities to facilitate constructive dialogue and engagement between indigenous peoples, national authorities, public officials and, when relevant, the private sector.

108. The lack of or insufficient access to justice for indigenous peoples in State legal systems, along with the lack of statutory recognition and adequate protection of indigenous land rights, contributed to the challenges experienced by indigenous peoples worldwide. OHCHR assisted States in improving indigenous peoples' access to legal remedies so that indigenous peoples could better benefit from national legal systems, advocate for the recognition of their own justice systems and participate in the development and implementation of domestic policies and legislation to protect their rights.

109. OHCHR also supported States in strengthening their capacity to protect indigenous human rights defenders and to fulfil their duty to consult and cooperate with indigenous peoples to obtain their free, prior and informed consent before adopting and implementing measures that may affect them. Strengthening prevention of, and addressing, intimidation and reprisals against those who cooperate with the United Nations has also been a priority of OHCHR.

110. OHCHR continued to support States, national human rights institutions and civil society in empowering individuals and communities to monitor deteriorating situations, and establish systems to prevent and monitor conflicts, particularly regarding their lands and resources.

111. Recognizing that the 2030 Agenda for Sustainable Development puts the principles of equality and non-discrimination at its centre, OHCHR supported the implementation of the Sustainable Development Goals and the associated targets relevant to indigenous peoples. The collection of disaggregated data continues to be essential for a comprehensive assessment of the extent and range of the challenges confronting indigenous peoples today, and it remains, worldwide, largely insufficient.

112. As is evidenced in the present report, significantly enhanced efforts are needed in order for States to ensure effectively the full and equal enjoyment of rights for all indigenous peoples, through domestic laws, policies and strategies in line with the United Nations Declaration on the Rights of Indigenous Peoples, relevant human rights obligations and the outcome document of the World Conference on Indigenous Peoples.